## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

GWENDOLYN P. WRIGHT,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 4:17-cv-01838
	§	
THE COURTYARD BY MARRIOT; LBAM	§	
INVESTOR GROUP, LLC; APPLE	§	
HOSPITALITY REIT, INC.; PHILIP	§	
BARROCAS; MARY EWING; MARSHA	§	
CANNON; BARBARA ISRAEL; LBA	§	
HOSPITALITY; FARRAH ADAMS,	§	
Defendants.	§	
	§	

# FARMER, PRICE, HORNSBY & WEATHERFORD, LLP'S RULE 12(b)(6) MOTION TO DISMISS

#### TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW Defendant Farmer, Price, Hornsby & Weatherford, LLP, and files this its Rule 12(b)(6) Motion to Dismiss, and would respectfully show the Court as follows:

#### **INTRODUCTION**

Plaintiff Gwendolyn P. Wright ("Plaintiff") brings her lawsuit against a host of parties alleging various employment discrimination claims related to her previous employment at The Courtyard by Marriott in Shenandoah, Texas. Defendant Farmer, Price, Hornsby & Weatherford, LLP ("FPHW") was served in this action, but there are absolutely no allegations made against FPHW in the Complaint. In fact, FPHW is not even listed in the Parties section of the Complaint. FPHW, a law firm, has served as counsel to some of the other defendants in this lawsuit, but FPHW never employed Plaintiff and has never engaged in an attorney-client relationship with Plaintiff.

Accordingly, and for the reasons discussed below, FPHW respectfully requests that it be dismissed from this lawsuit pursuant to Rule 12(b)(6).

### **STANDARD OF REVIEW**

To survive a motion to dismiss under Rule 12(b)(6), the Complaint must contain sufficient factual matter to state a claim that is "plausible on its face." The factual allegations must be sufficient to raise the right to relief above a speculative level. Where the facts do not permit the court to infer more than the mere possibility of misconduct, the Complaint has stopped short of showing that the pleader is plausibly entitled to relief. While the Court must construe the claims in light most favorable to plaintiff, it need not consider legal conclusions couched as factual allegations.

## **ARGUMENTS AND AUTHORITIES**

Plaintiff's Complaint contains no allegations whatsoever, factual or legal, regarding FPHW, therefore making Plaintiff's Complaint as it relates to FPHW woefully inadequate. Plaintiff describes in detail the alleged actions of the other defendants, but not FPHW. There is no assertion, allegation, or even mention of FPHW engaging in any actionable conduct anywhere in the Complaint.

This is not surprising because Plaintiff clearly does not possess any valid claims against FPHW. FPHW, a law firm that has served as counsel to some of the other defendants herein, never provided any legal representation or advice to Plaintiff whatsoever, and Plaintiff never engaged

Bell Atl. Corp. v. Twombly, 550 U.S. 555, 570 (2007).

<sup>&</sup>lt;sup>2</sup> *Id.* at 555.

<sup>&</sup>lt;sup>3</sup> *Id.* at 557.

Ashcroft v. Iqbal, 556 U.S. 602, 678 (2009).

FPHW to perform any legal services on her behalf.<sup>5</sup> Furthermore, FPHW never employed Plaintiff in any capacity, so Plaintiff has no basis to assert any employment discrimination claims in this lawsuit against FPHW.

Due to the complete lack of allegations against it, FPHW respectfully requests that the Court dismiss it from the lawsuit pursuant to Rule 12(b)(6) as Plaintiff has failed to state a claim against FPHW upon which relief can be granted.

#### **CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, Farmer, Price, Hornsby & Weatherford, LLP respectfully request that this Court dismiss any and all claims against it with prejudice such that it is no longer a party to this lawsuit, and for such other and further relief, at law or in equity, to which it is justly entitled.

Respectfully submitted,

/s/ Greg K. Winslett

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First Nat. Bank of Durant v. Trans. Terra Corp. Intern., 142 F.3d 802, 807 (5th Cir. 1998) (holding that a non-client has no third party claim against an attorney when that attorney did not provide any representation or advice to the non-client).

## **CERTIFICATE OF SERVICE**

I certify that on the  $21^{st}$  day of July 2017, a true and correct copy of the foregoing was sent to Plaintiff Gwendolyn Wright, pro se, as follows:

Via Certified Mail

Gwendolyn Wright 3018 Ribbon Creek Way Spring, TX 77389 Pro Se Plaintiff

/s/ Greg K. Winslett
GREG K. WINSLETT